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1 (Break.)
2 Q. Mr. Friedman, I just want to show you what's
3 been previously marked as Exhibit P-9 and ask you if
4 you recognize that document?
5 A. Yes.
6 Q. Can you tell us what that document is,
7 please?
8 A. It was a contract that I offered to the
9 district for my services for Year 6.
10 Q. Did the district accept that contract?
11 A. Yes, they did.
12 Q. Do you have a signed copy of it signed by the
13 district?
14 A. No, I don't.
15 Q. Do you know if the district does?
16 A. They were not able to find it for me when I
17 had to submit for review, so the only thing I
18 submitted was a purchase order for the -- against the
19 same contract.
20 Q. Okay.
21 MR. BLEE: May I see that?
22 MR. KIRCHNER: Sure. This is P-9.
23 MR. BLEE: Yeah, I know. You can
24 continue. I may have --
25 MR. KIRCHNER: Previously marked.

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1 Q. Did you have a different contract for Year 7?
2 A. Yes.
3 Q. So that contract was only valid for Year 6?
4 A. Yes.
5 Q. Let me show you what's been previously marked
6 as Exhibit P-8 and ask you if you recognize that
7 document?
8 A. Well, it looks like an incomplete page that
9 would have been the working document that would have
10 put the Year 6 matrix together.
11 Q. Is this the matrix that you testified about
12 earlier that you created?
13 A. This is the matrix that I developed for the
14 board so they would identify who had bid and what the
15 awards were.
16 Q. And your testimony is that this appears to be
17 incomplete to you?
18 A. This is blank. The only thing it has are
19 vendors. I'm not sure it's a complete list.
20 Q. Did members of the School Board use this form
21 or something similar to it to record their comments
22 when they were evaluating the Year 6 bids?
23 A. No.
24 Q. What was this document used for?
25 A. This was a document that I used to create

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1 the -- it was a beginning document for which I
2 created the matrix so I had the telecom. I guess
3 these are 470 numbers and vendors that I probably was
4 aware of and then I created a different document from
5 this.
6 Q. What was that different document?
7 A. That's the matrix that was presented to the
8 board.
9 Q. Okay. Do you have a copy of that matrix in
10 your file?
11 A. That matrix was also submitted with the Year
12 5, 6, and 7 audits which you have, so you should
13 have -- also have a copy of that document.
14 Q. That doesn't answer my question. Do you
15 have a document of that document in --
16 A. This document?
17 Q. No, no. The document, the product that you
18 produced to the board.
19 A. Yes. Yes, I do.
20 Q. Okay. Let me show you what's previously
21 been marked as Exhibit P-12, ask if you recognize
22 that document?
23 A. This is the document the -- which you just
24 asked me if I had possession of.
25 Q. Okay. That's the finished matrix?

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1 A. It looks like it is.
2 MS. WEINSTEIN: I'd like to caution the
3 witness. This is a five page document.
4 THE WITNESS: Actually it looks like
5 many copies of the same thing. I'm not sure what
6 we're looking at.
7 MS. WEINSTEIN: Please take a careful
8 look at this to make sure that your testimony is
9 accurate.
10 THE WITNESS: Well, I'm seeing duplicate
11 pages here, so I don't know. This is more than one.
12 Q. It may be two copies of the same document.
13 It is quite possible. Let me see here.
14 A. These look like copies of these because of
15 the way this is done and this is not. So, this was
16 the first copy and these are subsequent copies of
17 this.
18 Q. When you say the first copy, which numbers
19 are you referring to?
20 A. 4705 and 4706 appear to be duplicates of, and
21 there's no second Bates number on here.
22 Q. What's the first Bates number?
23 A. So, the first one is 04671 and its document
24 appear to be duplicates of 04705 and 06.
25 Q. Okay. And what is --

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1 A. Yes.
2 Q. Okay. Let me show you this document, which
3 I think is similar. This is P-84, Bates number 7183.
4 Do you recognize this as a fax from you to
5 Miss Cohen?
6 A. Yes.
7 Q. It's on Alemar Consulting, Inc. letterhead;
8 is that right?
9 A. Um-hum.
10 Q. And do you see the language where it says"
11 Marilyn, I included the switch and router info just
12 received?
13 My question is who did you receive the switch
14 and router info from?
15 A. It's basically the same thing here, but I
16 have now faxed to her. Marilyn was having problems
17 with some of the things that I was sending her
18 because she uses an America Online account, so she
19 had indicated she had not received it, so I just
20 repeated what was there and sent it out as a fax.
21 Q. And the two items --
22 A. Are the same items.
23 Q. -- are the exact same?
24 A. Same items that are on this piece here
25 (indicating).

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1 Q. And this is information you received from
2 MTG's --
3 A. This is --
4 Q. -- bid?
5 A. -- confirmation of a list that I compiled
6 that MTG confirmed was in the district. -- CTS CO
7 Q. Okay. Show you P-85. P 85 is Bates not in
8 numbered 7194. And do you recognize this document?
9 A. No. I don't know who Barry is, but I
10 understand what's being spoken about in this
11 document.
12 Q. And what is that?
13 A. That was a Year 7 initiative that the
14 district decided not to move forward on.
15 Q. Okay.
16 MS. WEINSTEIN: Objection on the same
17 basis that this is way beyond the scope.
18 MR. KIRCHNER: Are you objecting to my
19 previous question or the one I'm about to ask?
20 MS. WEINSTEIN: This whole line of
21 questioning. The exhibit -- you can be finished.
22 I'll be quiet so that you can be finished.
23 MR. KIRCHNER: Thank you.
24 Q. What is that initiative?
25 A. They wanted to figure out a way to use the

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1 student ID cards with a wireless system so they could
2 do attendance.
3 Q. Whose idea was that?
4 A. The district's idea.
5 Q. And why did they not pursue it, do you know?
6 A. We were not able to get the information we
7 needed, what systems would be buses, what systems
8 were here. We were not able to get the information
9 we needed in order to put out a reasonable
10 expectation of what it was the school district was
11 looking for.
12 Q. Was this an E-Rate eligible project?
13 A. It could have been. It depended how it
14 played out.
15 Q. Let me show you P-86 and ask you if this
16 document refers to the same project?
17 A. Yes, it does.
18 Q. Okay. I show you P-87. For the record
19 P-87 is Bates numbered 7253 and 7254.
20 Do you recognize this document?
21 A. Again, I don't recognize this specific
22 document, but it certainly appears as though it came
23 from me. And what is the question?
24 Q. The question was do you recognize the
25 document?

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1 A. Yes.
2 Q. Okay. This is an e-mail from you to Miss
3 Cohen dated January 9, 2004; is that right?
4 A. Um-hum.
5 Q. And also it appears it went to Miss Haye; is
6 that right?
7 A. Yes.
8 Q. And can you tell us why you were sending them
9 the attached material?
10 A. I was keeping them informed on current
11 information I was receiving from the SLD. It was
12 general information given out. And I do that to all
13 my clients.
14 Q. This particular information concerns
15 technology plans and the most cost effective provider
16 among other things.
17 Was there a particular reason why you were
18 pointing --
19 MS. WEINSTEIN: Objection to the form of
20 the question.
21 MR. KIRCHNER: I haven't finished the
22 question yet. Please wait until I finish asking the
23 question.
24 Q. Is there a reason why you were pointing out
25 those particular sections to your client?

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1 the school district for using the Linux servers?
2 A. Do I have any knowledge of what?
3 MR. KIRCHNER: Want to repeat it.
4 (Whereupon the preceding question was
5 read back by the reporter.)
6 MS. WEINSTEIN: Objection. I'm going
7 to object on the grounds that not only is this
8 outside the scope of discovery in this litigation,
9 but I believe that it may -- this line of questioning
10 may be asked for the purpose of assisting the
11 plaintiffs in related litigation, and I'm going to
12 object to any discovery that appears to be outside
13 the scope and asked on the basis -- on the basis it
14 would not be a good faith link with the issues at
15 stake in this litigation.
16 I do believe that it is prohibited by
17 the New Jersey Rules.
18 I'm going to allow the plaintiff -- the
19 witness to answer.
20 MR. KIRCHNER: Okay. I have no idea
21 what you're talking about.
22 But could you please answer the
23 question?
24 THE WITNESS: I'm going to need it a
25 third time.

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1 (Whereupon the preceding question was
2 read back by the reporter.)
3 THE WITNESS: I do not know whether MTG
4 provided the district with any solutions other than
5 what they proved in their quote under the E-Rate
6 program.
7 Q. I show you Exhibit P-89, which is a two page
8 document Bates numbered 6631 and 6632.
9 Have you ever seen these documents before?
10 A. No.
11 Q. Do you know what they are?
12 A. I can read what they say.
13 MR. BLEE: Objection.
14 THE WITNESS: I don't know what they
15 are.
16 Q. Do you have any knowledge of MTG being issued
17 a purchase order to do the work indicated on these
18 two pages?
19 A. Again, this is outside my job responsibility
20 for E-Rate. Once -- once I file the 486, the
21 district handles their own affairs.
22 Q. Okay.
23 A. So the answer is no, I have never seen these
24 before and I am not aware of anything.
25 Again, I am aware that MTG has done work.

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1 The nature or extent of that work I am not familiar
2 with.
3 Q. Okay. Is it your understanding that this
4 work is outside of the E-Rate program?
5 MR. BLEE: Objection.
6 THE WITNESS: I can't tell that from
7 this. I mean, I can go through this.
8 Q. Well, you just said that you were aware of
9 the E-Rate program applications and awards; is that
10 right?
11 A. I'm aware that MTG was awarded a contract for
12 Year 6 submissions. I am aware that that was
13 competitively bid and the district has a choice to
14 effectuate that contract prior to the funding
15 commitment letter being awarded as long as it's after
16 the start date, which would be July 1 of '03.
17 So, if they have engaged Mic -- MTG to do
18 work that would be E-Rate eligible, then they have
19 done so and that would not be inappropriate.
20 Q. Well, can you tell from looking at this
21 document whether the work that's included here is
22 E-Rate eligible?
23 MS. WEINSTEIN: Objection. Asked and
24 answered.
25 THE WITNESS: Again, I'm still not

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1 familiar enough with this. I have not looked at it.
2 There are things in here that would be and things in
3 here that would not be.
4 Q. Okay. Do you have any knowledge of a
5 6/13/03 quote that MTG refers to on the first page?
6 A. I will repeat that I have no knowledge of any
7 dealings between the district and MTG after my
8 submission of the 471 and 486. I have no knowledge.
9 I'm not involved in any of this.
10 Q. Okay. If this were a quote that was related
11 to the E-Rate program wouldn't you be aware of it?
12 A. No.
13 Q. You wouldn't be?
14 A. No. Why would I be aware of it if it happens
15 after I have completed my contract?
16 Q. Okay.
17 A. I don't manage the projects.
18 Q. P-90, I believe you testified about this
19 document earlier.
20 Is this the response that you drafted to
21 RelComm's challenge to the Year 7 bid process?
22 MS. WEINSTEIN: Is there a question?
23 MR. KIRCHNER: Yeah.
24 THE WITNESS: What's the question?
25 MR. KIRCHNER: Would you read it back

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1 bidding.
2 Did you draft that or did that come from
3 someone else?
4 A. The language of that came from someone else.
5 Q. Okay. On page 2, in Bates number 7170,
6 towards the middle of the page, paragraph that starts
7 prospective bidders were provided with site diagrams,
8 whose language is that?
9 A. Mine.
10 Q. And what were your referring to when you said
11 site diagrams were provided?
12 A. We asked for some site diagram and Miss Cohen
13 got site diagrams for the buildings in question
14 basically, and we distributed them.
15 Q. Aren't those the diagrams that showed the
16 fire exits and the fire alarms and things like that?
17 A. I don't recall what those were. All I did
18 was ask for diagrams that we could distribute. She
19 provided them, we distributed them.
20 Q. Okay.
21 A. It does mark where the classes are and where
22 the closets are and things of that nature, so it
23 would be a good starting point considering that we
24 had nothing else to show.
25 Q. Okay. Footnote number 2, there's nothing in

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1 that walk-through. Specifically that language is
2 what I said.
3 Q. During --
4 A. There were several questions.
5 Q. During what walk-through?
6 A. During the -- during the Year 7 walk-through
7 I was asked by -- about the nature of the network
8 electronics.
9 We simply said that if Year 6 had been
10 funded, then Cisco would be in there and we would be
11 looking for equipment that would be compatible and
12 operable with that.
13 Q. So, are you referring here to new equipment
14 or to equipment that was a re-bid of the Year 6
15 initiative?
16 A. The statement specifically references Year 7.
17 If Year 6 is funded -- if Year 6 is not funded it
18 really wouldn't matter.
19 But the 470 specifies specifically Cisco
20 Catalyst equipment or equivalent or better, so that
21 any product could have been submitted that met those
22 requirements.
23 Q. Look back at page 1 if you would, please, top
24 of the page where it says: Note: This challenge
25 only addresses a single Form 470 submission, and it's

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1 the rules that provides for videotaping or audio
2 taping the premises.
3 Do you know if there is anything in the rules
4 that prohibits videotaping or audio taping the
5 premises?
6 A. I don't think the question is really
7 appropriate because it's how these people were using
8 that equipment rather than whether it's in the rules
9 or not.
10 Q. Would you answer my question, please?
11 A. The district felt that they did not want to
12 allow that, okay, but there's nothing in the SLD that
13 either says anything for or against the use of
14 videotape.
15 Q. Okay. On the third page of the document,
16 top paragraph --
17 A. Where are we now?
18 Q. Third page, number 7171, top paragraph,
19 towards the bottom of the paragraph there is a
20 sentence: For issues relating to interoperability,
21 compatibility, and manageability, Cisco would be the
22 preferred brand in Year 7 2004 initiatives if the
23 Year 6 initiative was funded.
24 Whose language is that?
25 A. I'm merely stating what I had stated during

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1 got a number in parenthesis, that which seeks to
2 re-bid goods and services as yet unfunded from the
3 district's Year 6 2003 E-Rate initiative.
4 A. Yes.
5 Q. Okay.
6 A. And the question is?
7 Q. The question is does the language on the
8 third page there refer to re-bid of Year 6?
9 A. Again, you're tying two dissimilar pieces
10 together.
11 This is a comment that the challenge that
12 RelComm gave is not against the entire 470 -- the
13 entire submission that the district was making but
14 only that portion of the submission that dealt with
15 Year 6, and that's the note.
16 On the third page in which you are referring,
17 that was a walk-through that dealt with all of the
18 submissions for all of the initiatives for Year 7.
19 It does not restrict itself only to the re-bid of
20 Year 6.
21 Q. Okay. Wasn't RelComm's challenge to the
22 specification of Cisco for the year for the re-bid of
23 Year 6?
24 A. RelComm's challenge was only for one 470
25 against the four or five that were submitted. That

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1 anything that you think needs to be changed you can
2 indicate that.
3 A. Thank you.
4 Q. Okay. Let me show you P-91, Bates numbered
5 66. It is document -- it's an e-mail from Miss
6 Cohen to you; is that right?
7 A. Yes.
8 Q. Do you recognize this document?
9 A. Again, lots of documents. Recognizing it,
10 yes, it looks like a document that I received.
11 Q. She starts out: I will review it with Donna
12 when she gets in from the high school.
13 Do you know what "it" is?
14 A. No.
15 Q. Okay. The next sentence refers to a Joe
16 Dougherty. Is that the School Board solicitor or one
17 of the School Board solicitors?
18 A. I don't know. The name does not sound
19 familiar.
20 Q. Okay. Do you recall Mr. Dougherty asking
21 you questions?
22 A. I don't know who Mr. Dougherty is. I need
23 more context around this in order to be able to
24 explain what it is.
25 Q. Okay. Given the Bates number of this

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1 document, this is a document produced by you from
2 your files.
3 A. Yes.
4 Q. The last sentence says: He, meaning Mr.
5 Dougherty, will be here about two p.m. so we can open
6 the remaining bids.
7 Does this refresh your recollection about
8 what this was discussing?
9 A. It really doesn't.
10 Q. Okay.
11 A. It really doesn't.
12 Q. Okay. P-92 I'm showing you.
13 MS. WEINSTEIN: I don't see any Bates
14 numbers on this document.
15 MR. KIRCHNER: No, there are none. For
16 the record, this document has been an exhibit in
17 certain pleadings filed with the Court but it's never
18 been Bates numbered. It was produced to us by MTG in
19 discovery in the federal court action.
20 Q. Have you ever seen these documents?
21 A. I don't believe so.
22 Q. Do you know what it is?
23 A. It looks to be a listing of equipment.
24 Q. Do you have any idea who prepared this list?
25 A. No, I do not.

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1 Q. And you don't believe you've ever seen it
2 before?
3 A. No, I have not.
4 Q. Would you have any idea how MTG received this
5 document?
6 MR. BLEE: Objection to the form of the
7 question.
8 THE WITNESS: Any dates or anything on
9 this that identifies it? Is there anything other
10 than the list?
11 Q. Look at the last page under the heading
12 subject colon summary.
13 A. I see that. It seems to be written to me,
14 but I don't ever recall seeing this. I'm sorry.
15 Q. Well, I would differ with you. It appears
16 that it was written by you. Does that --
17 A. Thanks, Marty. No, I don't sign my name
18 Marty. I'm sorry.
19 Q. Okay. So that you're saying this definitely
20 did not come from you?
21 A. Right, this did not come from me, and if it
22 was written by somebody by the name of Marty it was
23 not me.
24 Q. Okay. Let me show you what's been marked as
25 P-93. And again, this is a document that is un-Bates

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1 stamped, but I can represent to you that this has
2 been attached to certain pleadings filed in this case
3 and it was produced to RelComm by MTG in discovery in
4 the federal court action.
5 A. Okay.
6 Q. Have you ever seen this document before?
7 A. Well, the answer ultimately is no, except
8 that I believe I saw this document in their
9 technology plan.
10 Q. When you say their, who do you mean?
11 A. The school district's.
12 Q. And which technology plan, the one currently
13 in place or the prior one?
14 A. Prior one.
15 Q. Okay. Have you seen it anywhere else?
16 MS. WEINSTEIN: Objection. I believe
17 the witness testified that he didn't recognize the
18 document but he believed that he had seen it before.
19 Q. Have you seen it anywhere else?
20 A. No, I don't believe so. No.
21 Q. Do you have any idea how this document would
22 have been provided to MTG?
23 MR. BLEE: Objection.
24 THE WITNESS: When was it provided to
25 MTG? I can't answer that.

inside
info

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1 MR. KIRCHNER: Okay. Is there a
2 question of privilege?
3 MS. WEINSTEIN: No, there's not a
4 question of privilege.
5 MR. KIRCHNER: Well --
6 MS. WEINSTEIN: I just think I can clear
7 this up.
8 MR. KIRCHNER: Why don't you take a
9 break and go talk to him.
10 MS. WEINSTEIN: I can just ask him right
11 here.
12 MR. KIRCHNER: Okay.
13 MS. WEINSTEIN: I'm going to object to
14 questioning along these lines because these questions
15 have no bearing on this case whatsoever, nor do they
16 have any bearing on the Atlantic City Board of
17 Education, therefore are considerably outside the
18 scope of discovery.
19 They are not reasonably likely to lead
20 to admissible evidence in this matter and not
21 appropriate for deposition questioning.
22 I'm going to instruct the client not to
23 answer unless there would be some foundation here to
24 show that there is any relationship with the Atlantic
25 City Board of Education at all.

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1 If you'd like to create a foundation,
2 I'm willing to consider that.
3 MR. KIRCHNER: Okay. Well, I -- I
4 disagree with your instruction.
5 As you well know, the New Jersey Rules
6 do not allow you to instruct a witness not to answer
7 a question unless there is a question of privilege,
8 and you've indicated that there is no question of
9 privilege, so your objection is off base.
10 But in an effort to try and move this
11 along, let me see if I can do what you've asked me to
12 do, which is to provide a foundation.
13 Q. Mr. Friedman, who is Complete Convergence,
14 Inc.? Is that MTG?
15 A. They are the same company.
16 Q. Same company.
17 A. It says that right here, Complete Convergence
18 Inc., d/b/a Micro Technology Groupe, MTG.
19 Q. And who is Informed Resources, Inc.?
20 A. That's also Mr. Holt, as we've said before.
21 Q. Okay. And Mr. Holt was working for Alemar
22 during the Year 6 in the Atlantic City School Board?
23 A. Yes. Mr. Holt did the walk-throughs for Year
24 6.
25 Q. Okay. And do you acknowledge that Mr. Holt's

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1 company, Informed Resources, received an award from
2 Imhotep Charter School in Year 6?
3 A. Yes.
4 Q. Okay. And the same question for ComTec.
5 Did ComTec receive an award from Imhotep Charter
6 School during Year 6?
7 A. Yes.
8 Q. And I've shown you documents earlier that
9 indicated to you that ComTec was doing work for the
10 Atlantic City School Board in Year 6; is that right?
11 A. No. Were they doing -- they were doing a
12 telephone analysis, yes.
13 Q. Well, didn't I show you invoices that
14 indicated that ComTec was subcontracting with MTG to
15 do wiring?
16 A. You're asking me to confirm something I have
17 no knowledge of, so if you say so, that's fine, but I
18 can't confirm that.
19 Q. Okay. If you look at the next page, the
20 Germantown Settlement Charter School, did MTG get an
21 award from the Germantown Settlement Charter School
22 in Year 6?
23 A. Yes.
24 Q. And how about Informed Resources, Inc.?
25 A. Yes.

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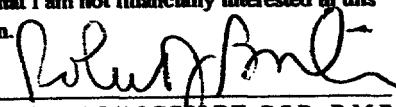
1 MS. WEINSTEIN: Are you asking whether
2 the client can -- whether Mr. Friedman can read off
3 of this sheet or whether he has independent
4 knowledge?
5 MR. KIRCHNER: I'm asking if he has
6 independent knowledge.
7 MR. BLEE: I join in that objection to
8 clarification.
9 THE WITNESS: Yes.
10 Q. Do you have --
11 MR. BLEE: Excuse me, I think -- I don't
12 know if the court reporter got his response, and we
13 should clarify.
14 If you wouldn't mind just reiterating
15 that, Mr. Kirchner, whether it is coming from his
16 personal knowledge or based upon the sheet that he
17 had never seen before.
18 Q. My question to you, Mr. Friedman, is do you
19 have a recollection whether MTG and Informed
20 Resources received contract awards from Germantown
21 Settlement Charter School during Year 6?
22 MS. WEINSTEIN: Objection. And you are
23 so far away from anything that relates to the
24 Atlantic City School Board, I just cannot agree with
25 this line of questioning.

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1 I don't want to get into a long
2 diatribe. I just want to note the objection to --
3 the objection on the record. Thank you.
4 MS. WEINSTEIN: We obviously don't want
5 Mr. Friedman to have to return for a third day of
6 deposition testimony and certainly would like to work
7 with counsel to do everything we can to avoid that.
8 MR. KIRCHNER: Anybody else want to say
9 anything?
10 (The deposition concluded at 4:24 p.m.)
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1 CERTIFICATE

2
3 I, ROBERT J. BOCCOLINI, a Certified Shorthand
4 Reporter, Registered Merit Reporter, and Notary
5 Public of the State of New Jersey, do hereby certify
6 that prior to the commencement of the examination,
7 MARTIN FRIEDMAN
8 was duly sworn by me to testify to the truth,
9 the whole truth and nothing but the truth.
10 I do further certify that the foregoing is
11 a true and accurate transcript of the stenographic
12 notes of testimony taken by me at the time, place and
13 on the date hereinbefore set forth.
14 I do further certify that I am neither a
15 relative nor employee nor attorney nor counsel of any
16 of the parties to this action, and that I am neither
17 a relative nor employee of such attorney or counsel
18 and that I am not financially interested in this
19 action.
20 
21
22 ROBERT J. BOCCOLINI, C.S.R., R.M.R.
23 Certificate No. XI01040
24 Notary #7205; Expiration 7/27/2008
25 Date: October 26, 2004

45 (Pages 380 to 381)

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1 Q. When was that?
2 A. I don't recall. Last spring I believe and I
3 don't recall.
4 Q. You say you believe you presented it at a
5 board meeting.
6 A. No, I don't believe I presented it at a board
7 meeting. I believe I submitted the document to be
8 presented at a board meeting. There is a listing of
9 what should have been delivered and what actually was
10 on site.
11 Q. Take a look at P-69. Have you ever seen
12 this document before?
13 A. Yes.
14 Q. See under Year 5, this is -- for the record
15 this is a memo from Marlin Cohen to Lisa Mooney dated
16 January 25, 2004, the subject is E-Rate request, and
17 it's Bates numbered 54.
18 A. It's the other way around. It's from Lisa
19 Mooney to Marilyn Cohen.
20 Q. I stand corrected. Thank you. You see
21 under Year 5 the language: Mr. Friedman indicated
22 for Year 5 we are dropping our request for internal
23 connections. Is that accurate?
24 A. No.
25 Q. What's wrong with it?

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1 that on to the SLD.
2 Q. When you say you didn't think it was worth
3 it, what do you mean?
4 A. I looked at that. I just didn't feel that it
5 was worth saying that I -- you know, correcting the
6 language. It was a simple memo and it didn't really
7 mean anything.
8 Q. I'm showing you what's been marked as P-70.
9 Ask you if you recognize that document?
10 A. It looks like an e-mail from me and it's
11 during the planning process, so what else can I say?
12 Q. For the record it's Bates number 182.
13 Are you saying you don't recognize it but you
14 think it is what it purports to be?
15 A. I have generated many documents dealing with
16 the Atlantic City School District in this case. For
17 me to remember every single document and accurately
18 say that I remember the document is ludicrous for me
19 to take a look at a document that looks like it's
20 real and submit a response.
21 Saying yes, it looks like it's real is more
22 appropriate.
23 Q. Okay. Well, for the record, this -- the
24 Bates number on this document indicates that this was
25 produced from your files, so I'll just represent that

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1 A. This is a letter or a memo that was provided
2 with the documentation in response to a planning
3 document for an audit, and basically what I was
4 asking her to supply me were the documents that would
5 support the telecommunications, because from that
6 meeting it had been decided that we did not need
7 anything to support internal connections because
8 there was no documentation to support that they had
9 been competitively bid.
10 Q. Well --
11 A. So, it's not my decision here. I'm simply --
12 what she is saying is that it is what I said, that --
13 that from this meeting they have decided not to move
14 forward with these and the only documentation I need
15 from her is telecommunications.
16 Q. Do you know why she said Mr. Friedman
17 indicated for Year 5 we are dropping our request for
18 internal connections?
19 MS. WEINSTEIN: Objection.
20 THE WITNESS: I can't answer for Miss
21 Mooney.
22 Q. Did you ever discuss this with her?
23 A. I didn't feel it was worth it. I saw that I
24 didn't like the language, but it was a minor piece.
25 She supplied the information I requested and I sent

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1 to you.
2 A. That's okay.
3 Q. Okay. Now, in the middle of the document --
4 and again, it appears to me that this is a memo or an
5 e-mail from you to Donna Haye and Marilyn Cohen, and
6 you're asking them to review language that is
7 intended ultimately to go to the SLD or the USAC, is
8 that accurate?
9 MS. WEINSTEIN: Objection. I object to
10 your paraphrasing these documents and asking the
11 witness to sign onto it.
12 I think if you want to ask him or quote
13 from the documents, but I don't think this is being a
14 very accurate reflection of his thoughts by your
15 paraphrasing what's in the document. The documents
16 speak for themselves.
17 BY MR. KIRCHNER:
18 Q. Can you answer my question, please?
19 A. What was the question?
20 MR. KIRCHNER: Bob, would you read the
21 question back, please?
22 (Whereupon the preceding question was
23 read back by the reporter.)
24 THE WITNESS: You know, can we try that
25 again, please?

21 (Pages 284 to 287)

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1 why they selected it.
2 That's also written up in the matrix that was
3 provided to the School Board, so I'm merely taking
4 that documentation and putting it into language.
5 Q. Okay. Did you do an analysis of that
6 yourself?
7 A. Of what?
8 Q. Whether it was the best price.
9 A. I don't analyze the bids.
10 Q. Okay. But you believe it's true
11 nonetheless?
12 A. I -- well, I have to believe it's true. I
13 have to believe it is true because that's what the
14 district told me to submit, and I also took a look at
15 when we did the matrix the bidding of the network
16 electronics including the servers and I believe that
17 they were also the best price there as well.
18 Q. And --
19 A. It's -- you must also remember that many of
20 the vendors did not submit proposals against the full
21 project, so therefore there was no competing bid on
22 some of these pieces of this larger project.
23 Q. Down at the bottom there appear to be two
24 weighting lists, one for telecommunication, one for
25 internal connections. Do you see that?

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1 A. Um-hum.
2 Q. Who created those weighting systems?
3 A. This again was a speculation based upon
4 conversation and it is presented in that way --
5 manner to the SLD.
6 Although it was not done formally, these
7 tables would indicate how they might have been
8 assigned, and that is what it is. They were not
9 used, but the decisions were based loosely on these
10 percentages.
11 Q. My question is who -- where did that
12 information come from?
13 A. Again, I interpret what's spoken about during
14 these meetings, place it into writing, send it back
15 to district for confirmation before I move it
16 forward.
17 Q. Okay. So, if I can translate what you just
18 said, you drafted these two weighting charts and
19 asked for the school district whether they were --
20 asked the school district whether they were accurate
21 or not; is that right?
22 A. I drafted this from conversations and
23 meetings that I had with school district personnel,
24 placed in it writing, and then asked for
25 confirmation.

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1 Q. Okay. Let me just show you this for the
2 record. I believe it's the identical language, just
3 in different format.
4 MR. BLEE: Two pages, Phil?
5 MR. KIRCHNER: Yeah, two pages. This
6 is number 87 -- 71 -- Bates number -- P-71, which
7 is Bates numbered it appears to be 187 and 188,
8 although the stamp is not entirely clear.
9 Q. I believe this is -- the first page at least
10 is the same language we just looked at but in a
11 different format. Is that accurate?
12 A. Yes.
13 Q. Okay. And then the second page is an e-mail
14 from Marilyn Cohen to you?
15 A. Yes.
16 Q. Saying that she approves your submission; is
17 that right?
18 A. Well, she allows me to submit that on behalf
19 of the school district.
20 Q. Okay. Let's do these two next. What have
21 I given you, 75 and 74?
22 A. 74 and 75.
23 Q. Okay. I've shown you what's been marked as
24 P-74, which is a one page document Bates numbered 55,
25 and P-75 which is a one page document Bates numbered

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1 56.
2 Do you recognize these documents?
3 A. Yes.
4 Q. Let's start with your e-mail to Marilyn
5 Cohen, which is P-74.
6 MR. BLEE: Mr. Kirchner, I have up to
7 P-72. I don't have --
8 MR. KIRCHNER: We skipped one or two.
9 MR. BLEE: You did?
10 MR. KIRCHNER: Yeah. We'll come back to
11 that. I'm taking it a little bit out of sequence.
12 MR. BLEE: All right. No problem.
13 MS. WEINSTEIN: I don't have P-72. I
14 have --
15 MR. KIRCHNER: No.
16 MR. BLEE: P-72 has not been marked. My
17 understanding it will be marked.
18 MR. KIRCHNER: It will be. We'll fill
19 in here.
20 Q. Do you recognize that document P-74?
21 A. P-74? I thought you were referring to P-75.
22 Q. No, P-74, the e-mail from you to Marilyn
23 Cohen.
24 A. That would be P-75, isn't it?
25 Q. Okay. I have them out of order then. P-75.

23 (Pages 292 to 295)

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1 A. This is the -- this was submitted during the
2 Year 7 submission --
3 Q. Okay.
4 A. -- for those projects which we were
5 re-bidding for Year 6.
6 Q. Okay. Had EPlus bid during Year 6?
7 A. I believe they had.
8 Q. Was its submission for Year 6 disqualified?
9 A. They were asked to submit it, as everyone
10 else had, in a -- in a sealed envelope by a certain
11 time, and they began to fax that to me. And then
12 they said that they were told they could fax it to
13 me. Of course they were faxing it to a regular voice
14 line, to my fax line.
15 They began faxing it to my fax line, which I
16 gave them the fax number. They had sufficient time
17 to deliver it in person by the deadline and they
18 chose not to do so.
19 Q. Is your answer to my question yes, that they
20 were disqualified for Year 6?
21 A. I submitted their documentation to the
22 district. The district --
23 Q. You're not answering my question. Do you
24 know the answer?
25 A. I'm not finishing the question.

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1 Q. Okay.
2 A. The district because it was submitted after
3 the deadline did not review this document.
4 Q. Were they disqualified?
5 A. I guess you could call that disqualified.
6 Q. And is it your testimony that they were
7 disqualified or that the district did not consider
8 their bid because it was received after the deadline?
9 A. It is my testimony that I delivered all the
10 bids to the district. This bid was not received in
11 the manner with which it was supposed to have been
12 received, nor by the time it was supposed to be
13 received, but I still delivered it to the district.
14 Q. Did you receive it by fax prior to the
15 deadline?
16 A. Yes, I did.
17 Q. Did you deliver the fax copy to the district?
18 A. No. They sent an overnight sealed envelope
19 which was delivered later and that is what I
20 delivered, including the fax document, I believe, but
21 I'm not sure of that.
22 Q. Did EPlus receive an award for Year 7?
23 A. I believe they have.
24 Q. And isn't it true that EPlus received an
25 award to do wiring work in Year 7 that had been

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1 awarded to MTG in Year 6?
2 A. I can't answer that. I don't have that
3 knowledge. I'm sure I can reference it.
4 Q. You referenced the number on the front page
5 ending in 1973.
6 A. Um-hum.
7 Q. Is that the FRN that was --
8 A. No.
9 Q. -- withdrawn?
10 A. This is -- this is a 470 application number.
11 Q. Okay.
12 A. And an FRN is attached to a 471.
13 Q. Okay. Was this 470 withdrawn?
14 A. In part.
15 Q. The part that duplicated the -- what had been
16 funded for Year 6?
17 A. That is correct.
18 Q. Was there any attempt made to compare the
19 costs that EPlus quoted for Year 7 to what MTG had
20 quoted for Year 6?
21 A. I do not evaluate the bids, therefore I am
22 not -- that's not part of my work.
23 Q. That's not what I asked you. I asked --
24 A. Then the answer would be no.
25 Q. Did the school district make any effort to do

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1 that?
2 A. I can't answer that.
3 Q. Okay. So, do you know whether -- do you
4 know whether any consideration was given to
5 instituting a change order to substitute EPlus's bid
6 for the work that MTG was awarded for Year 6?
7 A. I'm not aware of any effort. That doesn't
8 mean there wasn't one.
9 Q. Okay. You may have testified to this
10 earlier and if so I apologize, but do you recall how
11 many walk-throughs there were for Year 7?
12 A. Yes.
13 Q. How many were there?
14 A. There were two formal walk-throughs and one
15 informal walk-through.
16 Q. What was the informal walk-through?
17 A. One vendor had a communications problems, was
18 unable to make the second walk-through. The district
19 accommodated them by allowing them to come at a later
20 date and walk them through the same way.
21 Q. Which vendor was that?
22 A. I don't recall the name. I don't recall.
23 Q. Do you recall whether it was Empire
24 Technologies?
25 A. I believe that it was not Empire

25 (Pages 300 to 303)

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1 A. That document was provided to me when the
2 proposals were given to me as to who won. They were
3 all marked up.
4 Q. Is that a separate list or was that marked up
5 on the proposals themselves?
6 A. I believe I was given the proposal — I
7 don't — I don't know the answer to that question.
8 I don't recall.
9 Q. Well, have you ever seen a list similar to
10 the one that is represented by the last two pages of
11 this document?
12 A. I create —
13 MS. WEINSTEIN: Objection.
14 THE WITNESS: I create a spreadsheet
15 that I use in order to do the submissions, so that's
16 the only list I work with.
17 Q. You see on the page 7774 under number 1953 a
18 series of listings there.
19 Is 1953 the re-bid of Year 6 equipment?
20 A. I don't know the answer to that, but since
21 the previous one was the 1973 and that was Year 6
22 re-bid, then 1953 would probably not be the Year 6
23 re-bid.
24 Q. Well, look at the first page down at the
25 bottom there.

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1 A. First page?
2 Q. Yeah, the first page. Says application
3 number and then the last three digits are 1953. Do
4 you see that?
5 A. Yes.
6 Q. Okay. And continuing on to the end of that
7 paragraph, which is on the next page, it says this is
8 a re-bid of Year 6 equipment.
9 A. Okay. Document says that.
10 Q. Is that consistent with your recollection or
11 do you have a different understanding?
12 A. I — without again the documentation in
13 front of me that tells me what the different 470s
14 are, I can't confirm or deny that that's accurate.
15 Q. Well, with that uncertainty in mind, if you
16 look at the third page number — under 1953, you see
17 ComTec's name listed next to wire and cable
18 maintenance and internal cabling?
19 A. The name is listed there.
20 Q. Do you know whether ComTec was awarded those
21 contracts for Year 7?
22 A. I don't have specific recollection of
23 everybody who received an award from the district. I
24 would have to reference that.
25 This is a Year 7 piece, so I know ComTec won

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1 some awards in Year 7, but specifically whether 1953
2 or 1973 referred to the re-bid of Year 6 items, I
3 just can't truthfully give you an answer to that.
4 Q. Okay. I'm not asking you to speculate, but
5 if you look under the heading of 1973 on the same
6 page again, you see ComTec listed next to internal
7 cabling.
8 A. I see that.
9 Q. Now, isn't it true that MTG was awarded the
10 bid for internal cabling in Year 6?
11 A. Yes.
12 Q. Now, does MTG actually do cabling work
13 itself, do you know?
14 A. No. I believe they subcontract.
15 Q. And who did they subcontract that to?
16 A. They don't have an award. They haven't
17 subcontracted to anybody.
18 Q. Well, they have an award for Year 6, don't
19 they?
20 A. They have not performed it.
21 Q. Why have they not performed it?
22 A. Because —
23 MS. WEINSTEIN: Objection.
24 Q. Do you know why they have not performed it?
25 A. Well, the district is a little antsy right

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1 now for obvious reasons.
2 Q. Okay. And those obvious reasons are what?
3 A. Are this litigation and your recent filing
4 with the FCC.
5 Q. Okay. Are you familiar with who MTG
6 normally uses to do its wiring work?
7 MS. WEINSTEIN: Objection.
8 THE WITNESS: MTG has used a vendor that
9 I'm familiar with and they have used other vendors
10 which I'm not familiar with.
11 Q. And what is the one that you're familiar
12 with?
13 A. The one that I'm familiar with is a company
14 called Final Mile.
15 Q. Is it Final Mile or Five Mile?
16 A. Final Mile.
17 Q. Final Mile, okay. Let me show you what's
18 been marked as P-78.
19 A. Are you done with this?
20 Q. Yes, for now. For the record, P-78 is a two
21 page document, series of e-mails Bates numbered 7135,
22 7136.
23 Do you recognize the e-mails on this
24 document, Mr. Friedman?
25 A. Yes.

27 (Pages 308 to 311)

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1 district to figure out what they wanted to do.
2 Q. Would that have included voice-over IP?
3 A. If that would be their choice, I believe they
4 could also supply that.
5 Q. They do that?
6 A. I believe so. I'm not positive. Most of
7 these companies do.
8 Q. Let me show you P-80. P-80 is an e-mail
9 Bates numbered 7024. Do you recognize this document?
10 A. Yeah. It looks like a document from Mr.
11 Cirucci, from him to me.
12 Q. Who is Mr. Cirucci?
13 A. He is an employee of Southern New Jersey
14 Internet Provider.
15 Q. And what does that company do?
16 A. They provide Internet service.
17 Q. And have you done business with that company
18 in the past?
19 A. We have done business with SNIP in the past
20 yes.
21 Q. Had SNIP been awarded contracts at schools
22 where Alemar has been the consultant in the past?
23 A. They have won a few of them.
24 Q. This is 81, P-81. First off, do you
25 recognize the handwriting on those two pages?

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1 A. Yes.
2 Q. Is it yours?
3 A. Yes.
4 Q. Okay. For the record, this document is a
5 two page document Bates numbered 7178, 7179.
6 MS. WEINSTEIN: Where is the Bates
7 number on the first page? Oh, I see it.
8 MR. KIRCHNER: It's hidden.
9 MS. WEINSTEIN: I've got it now.
10 BY MR. KIRCHNER:
11 Q. Do you recall taking these notes?
12 A. Yes.
13 Q. Can you tell us when they were drafted?
14 A. I can't give you a specific date, but this is
15 one of the planning meetings that I had with school
16 district where I was taking notes about what they
17 needed to do for -- and this is not year -- this is
18 the meeting. Year 6 cabling is not the heading of
19 the document.
20 Q. Okay.
21 A. The Year 6 cabling is something that would be
22 re-bid, so we have a number of items here that are
23 part of what we are going to go after for Year 7.
24 Q. It appears that the document is broken into
25 segments and some of them have numbers next to them.

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1 Would those be different items that would be
2 bid for Year 7?
3 MS. WEINSTEIN: Objection.
4 THE WITNESS: I was trying to break it
5 down into different items.
6 Q. Other than the cabling, are any of these
7 items re-bids of Year 6?
8 A. I don't know. I don't know.
9 Q. What about number 4 there?
10 A. I don't recall whether we asked for a
11 distance learning unit in Year 6. I don't believe
12 so. I think that's a new project.
13 Q. Okay.
14 A. Wireless access points were in Year 6, and in
15 Year 7 they extended the wireless access points.
16 Q. Do you know a company called Platinum
17 Communications?
18 A. I've heard of them.
19 Q. Okay. Let me show you this document, P-82.
20 P-82 is a multi-page document and the Bates numbers
21 are 7099 through 7101, then there is a gap, it jumps
22 from 7116 to 7119, then there's another gap from 7125
23 to 7128.
24 Let me ask you first if the document that's
25 Bates numbered 7119 -- excuse me, the page numbered

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1 7119, which is towards the back of the exhibit, see
2 at the top there an e-mail from you to Ryan Ochs?
3 Do you know who Mr. Ochs is?
4 A. According to this e-mail he is with Platinum
5 Communications.
6 Q. Okay. And do you see the e-mail from you to
7 him dated January 9, 2004, where you say: The
8 attached info packet specifies what must be included
9 in the proposal, as well as when they are due and
10 how. They must be either hand delivered or
11 overnighted.
12 Do you see that?
13 A. Um-hum.
14 Q. Do you recall communicating that to Platinum
15 Communications?
16 A. This e-mail says I did, therefore I did.
17 Q. But is that consistent with your recollection
18 of what the requirements were for Year 7?
19 A. I'm sending him information packets that the
20 other vendors had received. He said he never
21 received it. I sent him the information packet with
22 apologies and asked him to follow its procedures.
23 Q. But your e-mail says they, meaning the
24 proposal?
25 A. Proposal.

29 (Pages 316 to 319)

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1 A. Um-hum.
2 Q. Do you know Mr. Brown?
3 A. Not personally.
4 Q. Have you done work with Nextel in the past?
5 A. Nextel has been a successful vendor for
6 cellular service.
7 Q. Okay. Isn't it true that Nextel has
8 received bid awards from some of the charter schools
9 for which Alemar has done work?
10 A. That is true. However, Mr. Brown has
11 nothing to do -- he's only in New Jersey.
12 Q. Okay. Wasn't the school district already
13 using Nextel for its wireless service prior to this
14 time?
15 A. They were using two vendors.
16 Q. Who were the two vendors?
17 A. Nextel and Verizon.
18 Q. Okay. And was the Nextel provider Mr. Brown
19 or someone else?
20 A. I don't know what you mean by that.
21 Q. Well, wasn't Mr. Brown seeking to take -- to
22 win an award in competition with another provider of
23 Nextel services that had already been in the
24 district?
25 MS. WEINSTEIN: Objection to form.

Mr.
Brown
recalled
all
of
his
in
IA

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1 Q. Okay.
2 A. That supports the infrastructure.
3 Q. Could you look if you would at Exhibit P-76?
4 A. Yes.
5 Q. I believe if you look at both pages
6 TechConnect participated in both walk-throughs. Is
7 that --
8 A. That's their choice.
9 Q. -- accurate? Okay. But your testimony is
10 that because they were only doing wire maintenance
11 they did not have to submit their bids --
12 A. No.
13 Q. -- by sealed envelope?
14 A. My testimony is that I believe they only got
15 a maintenance contract and as such they didn't have
16 to be do a sealed bid.
17 When they did the walk-through they were
18 possibly going other projects that would require it.
19 So, I don't know. It's their choice to
20 come, okay. It's their choice on what they bid on
21 and it is the district's choice as to how they award
22 these contracts.
23 Q. Isn't true that the wire maintenance that
24 they were bidding for in Year 7 wasn't even installed
25 yet?

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1 THE WITNESS: The answer to that is yes.
2 Q. Now, look at page 7125. At the top you see
3 an e-mail from you to Miss Cohen --
4 A. Um-hum.
5 Q. -- dated January 12, 2004? Says the
6 TechConnect bid is attached.
7 A. Um-hum.
8 Q. And then down below is an e-mail from Mr.
9 Forte at TechConnect to you saying: Please see
10 attached a bid for the Atlantic City public school
11 E-Rate project.
12 And down below it appears that there are
13 several documents attached by e-mail.
14 A. Right.
15 Q. Do you see that? Is it your recollection
16 that TechConnect sent its bid proposal in by e-mail?
17 A. Yes.
18 Q. And what was TechConnect proposing to do?
19 A. I believe they got wire maintenance. I'm not
20 sure I got -- I don't know again, because I don't
21 open these. You see that I simply forwarded it to
22 the district.
23 Q. Is wire maintenance one of the services for
24 which a walk-through is required?
25 A. No. That doesn't change the infrastructure.

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1 A. I don't know that either. There is wiring
2 in the district, cabling already in the district.
3 Not all of that cabling will be pre-laid with
4 Year 6 initiatives, so there is cabling in the
5 district that would need maintenance and support and
6 whether -- and that would be outside the scope of
7 what would be replaced in the Year 6 initiative.
8 Q. And your testimony is that a walk-through is
9 not required for someone to determine what that
10 cabling was and what kind of maintenance it needed?
11 A. For someone to say that I will support your
12 maintenance contract for so many hours per year at
13 this rate is not required -- does not require a
14 walk-through.
15 Q. Is that the only thing TechConnect bid on?
16 A. I don't know what they bid on. I didn't
17 evaluate the bids.
18 Q. Okay. You have no knowledge of what they
19 bid on?
20 A. Not that I can recollect here.
21 Q. Do you know if TechConnect submitted a bid in
22 a sealed envelope?
23 A. I don't know. I can't recall.
24 MR. KIRCHNER: Okay. Let's take a
25 break.

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1 A. Let me get the one.
2 Q. What's that document 046 --
3 A. Hang on one second.
4 Q. -- 68?
5 A. That should be -- 04668 appears to also be a
6 duplicate of 04705.
7 Q. Okay. And can you tell us what 04707 is?
8 A. I can only speculate. And what I will tell
9 you is that from that first document you showed me
10 what I did was played out what they -- what they bid
11 against, whether it was telecommunications or
12 internal connections.
13 I placed awarding -- the bids that were
14 awarded on those numbers into the appropriate places
15 and then provided.
16 So, that would be a summary, and then I
17 provided a break-out on another sheet where all
18 the -- all the telcom together are, the internals are
19 together and notes that were taken from the meeting.
20 Q. This is your work product; is that correct?
21 A. This is my work product, yes.
22 Q. I believe you said that this was produced to
23 the board.
24 A. Yes, it was.
25 Q. Okay. Let me show you what's been previously

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1 A. From the district. They sent me.
2 Q. Who from the district?
3 A. I picked it up at the district, so it was
4 waiting for me when I met with them. I had a -- no,
5 actually no. No, I don't know. I don't know.
6 I have a document that lists the equipment
7 that we were taking from the previous year, okay, and
8 I revised that against what was currently in the
9 district.
10 Q. What do you mean you revised it against what
11 was currently in the district?
12 A. Well, we have two vendors in the district, we
13 have TechConnect and MTG, who were with the equipment
14 and I asked them to confirm the list.
15 Q. Was the list accurate?
16 A. With the exception of these items the list
17 was accurate.
18 Q. Okay. These items you're referring to are a
19 little bit further down the page, 48 fiber GBICs?
20 A. Yeah, they are. Actually they are cards that
21 would go into a piece of equipment that would deal
22 with a fiber connection.
23 Q. Okay. And then there is also a 40 model
24 number and then there is --
25 A. It's a piece of -- that's the piece of

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1 marked as P-38, ask you if you recognize that
2 document?
3 A. Yes.
4 Q. What is that, please?
5 A. This is a purchase order that was tendered to
6 me for the Year 6 E-Rate contract.
7 Q. That's your contract to run the bidding
8 process for ACBOE for Year 6; is that right?
9 A. I don't run a bidding process. What I do is
10 take a -- take a district through the E-Rate
11 submission process.
12 Q. Now, let me show you what's been marked as
13 P-83, two page document Bates numbered 7204, 7205.
14 I'll ask you to look at the second page,
15 please, 7205. Do you recognize that document?
16 A. Okay.
17 Q. My question is do you recognize it?
18 A. Yes.
19 Q. Okay. See it's an e-mail from you to Miss
20 Haye, Miss Mooney, and Miss Cohen; is that correct?
21 A. Yes.
22 Q. And you say: I just received the inventory
23 of items for Year 6 LAN equipment restatement.
24 A. Yes.
25 Q. From whom did you receive that list?

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1 equipment from Cisco that works with those items.
2 Q. Okay. What kind of equipment is that?
3 A. It's a -- a -- of course I'm not a tech,
4 okay, but the piece of equipment that I'm looking at
5 I believe is something that, again, an SX card that
6 works with the GBICs.
7 Q. So, what you're saying is that you took the
8 list of equipment that you received from the
9 district?
10 A. I think there was a different number for
11 these items there. The number was corrected, not
12 that we were adding these items.
13 Q. So, you believe the numbers were on the
14 list -- or the items were on the list but the numbers
15 were incorrect?
16 A. Right. It was a correction to the numbers
17 that were listed.
18 Q. And I believe you said -- you referred to
19 something from MTG to confirm the proper number.
20 A. We had a listing of equipment that was
21 submitted from the previous year, and I asked the
22 people who were servicing the district whether or not
23 that was accurate as to what was in the district.
24 Q. Okay. Are you saying then that MTG's award
25 for Year 6 was the basis for the Year 7 bid proposal?

33 (Pages 332 to 335)

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1 MS. WEINSTEIN: Objection to the form.
2 THE WITNESS: There are some rule
3 changes in the works. I know that the district is
4 working on a tech plan and all submissions must
5 comply with the new rules. I am making sure they are
6 aware of those rules.
7 Q. Were you concerned that the district was not
8 complying with the requirements regarding selecting
9 the most cost effective provider?
10 A. No.
11 Q. Did you get involved at all in drafting the
12 new technology plan?
13 A. No.
14 Q. Do you know if the school district used any
15 outside vendors to assist it in preparing its new
16 technology plan?
17 A. No.
18 Q. You don't know or the answer is no, they did
19 not. I'm not sure.
20 A. You asked me if I knew. And the answer is I
21 do not know.
22 Q. Thank you. Let me show you what's been
23 marked as P-88, two page document Bates numbered 6626
24 and 6627.
25 Do you recognize these pages?

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1 A. No.
2 Q. Have you ever seen page 1 before?
3 A. No.
4 Q. Okay. Have you ever seen page 2 before?
5 A. No.
6 Q. Do you know whether the school district hired
7 MTG to perform interim technical support services at
8 a cost of \$10,000?
9 A. I don't have a direct knowledge of what they
10 hired them for or what the conditions were.
11 I do know that the district brought on MTG to
12 do some work while they awaited the -- the findings
13 or the -- what do they call that? The results of our
14 submissions.
15 Q. The results of your submissions?
16 A. Year 6 submission I guess. When is the date
17 of this?
18 Q. Look at the second page.
19 A. May of '03.
20 Q. Yeah.
21 A. Okay. So, May of '03 would have been Year 6,
22 so I am aware that the -- I'm aware but I do not have
23 direct knowledge of the -- that the district gave MTG
24 a contract on some limited work.
25 Q. And this is prior to the district finding out

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1 whether it was going to be funded for Year 6, right?
2 A. The district had asked me a -- a question
3 and I posed that question to the SLD, and basically
4 the question was: Was this a competitive bid? And
5 the answer is yes.
6 Could MTG be given an award? The answer --
7 be given a contract to -- for work on this? And the
8 answer is yes, as long as the school district
9 understands that they will be responsible for 100
10 percent of these costs, unless they receive a funding
11 commitment letter that provides these costs.
12 Q. Okay.
13 A. So the --
14 Q. That's not my question.
15 A. Well, the -- in a sense it is --
16 Q. Well --
17 A. -- because you're asking me about work that
18 was done in that period of time. And those are the
19 conditions under which that work was done.
20 Q. Okay. My question to you is the date of the
21 invoice here is 5/20/2003. Was that before or after
22 the school district learned that it received funding
23 for Year 6?
24 A. Oh, well again, my answer is the same. The
25 district has the ability to take -- to effectuate

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1 this contract regardless of whether they have a
2 funding commitment letter, with the understanding
3 that they pay full price if it's not funded.
4 So, whether this was engaged before or after
5 the issuance of a funding commitment letter is
6 irrelevant.
7 Q. Was this work -- do you know whether this
8 work was E-Ratable work?
9 A. I'm looking at this for the first time. I
10 have no idea what it is they're doing, okay, so I
11 can't -- you know, that would be speculation on what
12 the work was.
13 Q. Okay. You see on the first page there, the
14 second full paragraph, it says: Further, MTG can
15 help the district develop a comprehensive technology
16 plan.
17 Do you have any knowledge whether MTG was
18 retained by the school district or used by the school
19 district in any way to help it develop a technology
20 plan?
21 A. I have no knowledge of that.
22 Q. Next paragraph refers to the Linux servers.
23 Do you see that language?
24 A. Yes.
25 Q. Do you know whether MTG proposed solutions to

35 (Pages 340 to 343)

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1 please, Bob?
2 (Whereupon the preceding question was
3 read back by the reporter.)
4 THE WITNESS: Yes, it is.
5 Q. And did anyone assist you in drafting this
6 document?
7 A. Yes.
8 Q. Who?
9 A. District administrators and their attorneys.
10 Q. Which district administrators?
11 A. That would be Miss Hays, Miss Mooney, and
12 Miss Cohen, and maybe Mr. Nickels.
13 Q. Okay. And which district attorneys?
14 A. Mr. Blee.
15 Q. Okay. Did you all have a meeting to
16 discuss --
17 A. And my attorneys.
18 Q. Okay. Miss Weinstein?
19 A. I believe so.
20 Q. Did you all have a meeting to discuss this?
21 A. We passed the drafts around, I took
22 corrections and made them -- the modifications.
23 Q. Who did the first draft?
24 MR. BLEE: I object. Protected by
25 attorney/client privilege based upon what he said.

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1 MR. KIRCHNER: I asked him who wrote the
2 first draft of this document.
3 MR. BLEE: Well --
4 MR. KIRCHNER: Are you saying that's
5 privileged?
6 MR. BLEE: That's attorney work product.
7 MR. KIRCHNER: Well, if he tells me it
8 was drafted by the attorney, then I'm not going to
9 ask him any more questions.
10 MR. BLEE: Okay. We are treading a fine
11 line. I'm not trying to delay this.
12 MR. KIRCHNER: Let me ask it a different
13 way.
14 Q. Did you draft the first draft of this
15 document?
16 A. Yes.
17 Q. And then you passed it around for comments?
18 A. I draft --
19 MR. BLEE: Object to the form.
20 MS. WEINSTEIN: I'm going to object and
21 I think that we could be veering into an area that is
22 protected unless you next ask him whether an attorney
23 asked him to draft the document, was it drafted at
24 the request of the attorney.
25 MR. KIRCHNER: Well, I don't see why --

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1 how that changes. It's been produced in discovery,
2 so to the extent you're going to claim it was work
3 product, that protection has been waived by producing
4 it and also by publishing it to a list of people that
5 he testified about earlier. So, you can hardly
6 claim it's attorney work product.
7 Now, there may be a claim of privilege
8 in there.
9 I'm going to ask him did he pass this
10 draft on to other people for their comments.
11 THE WITNESS: Let me first go back and
12 state that the district received a challenge letter
13 from RelComm and I received a call from the district
14 asking me if I would assist in drafting a response.
15 Q. Who asked you to assist?
16 A. I'm not quite sure. It was either Miss
17 Fredericks or Miss Mooney.
18 Q. Who is Miss Fredericks?
19 A. She would be the -- her title escapes me at
20 the moment.
21 Q. Is she the purchasing agent?
22 A. There we go.
23 Q. QPA?
24 A. Administrative purchasing agent or purchasing
25 administrator. I think that's what it is.

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1 And in answer to your question, yes, based
2 upon information that I received and the letter of
3 complaint and the events that transpired, we created
4 a first draft. It was then sent it around for
5 comment and revision.
6 Q. Who supplied the content for this document?
7 A. It was supplied by a variety of people
8 involved in this process, but it is mostly a statement
9 of fact.
10 Q. Does that mean that you --
11 A. Well, the --
12 Q. -- are --
13 A. -- district scheduled the two walk-throughs,
14 one for December 18, 19th, those dates and everything
15 are coming off my contacts with RelComm.
16 So, yes, you know, when you talk about
17 statements of fact, they are there and I submitted
18 them because I have the documentation to support
19 that.
20 When it deals with law and other things, I
21 reference -- I acquiesced to those who know more.
22 Q. What about the statement on page 1 that says:
23 NISA 18A:18A-15 relates to the state's bidding
24 statute. Pursuant to that statute the district is
25 exempt from the bidding requirements for E-Rate

37 (Pages 348 to 351)

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1 is factually correct on the first page.
2 Q. And the next paragraph down there is language
3 that says: There is no VOIP in the district's Year 7
4 requests for it is an ineligible item.
5 You mean it is ineligible under the E-Rate
6 rules?
7 A. This is again stating that RelComm's
8 challenge spoke about bid requirements not being
9 clear to voice-over IP.
10 But there was no voice-over IP in the
11 district's Year 7 submissions, and the reason there
12 was no submission for voice-over IP is because in
13 Year 7 it became an ineligible item under E-Rate.
14 Q. Wasn't it included in the 470s that were
15 posted for Year 7?
16 A. I don't believe so.
17 Q. Okay. Did people bid on voice-over IP for
18 Year 7?
19 A. I don't believe so.
20 Q. Did you send a copy of this letter or this
21 document to RelComm?
22 A. I believe I sent it to all vendors and gave
23 it to the district for them to provide a formal
24 response to the -- to RelComm.
25 So, all players -- I believe all players had

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1 a copy of this letter.
2 Q. Let me ask the question again. Did you
3 yourself send a copy of this document the RelComm?
4 A. I believe I did, yes. They were among the
5 vendors that were on my list that I sent blind copies
6 out to.
7 Q. Okay. Did the Year 7 bid request include a
8 request for videotape PBX?
9 A. Yes.
10 Q. Didn't you testify earlier that was the same
11 as VOIP?
12 A. No. I said the functionality was the same,
13 the technology was not.
14 Q. The functionality is the same?
15 A. The distributed videotape over CAT 5 wires.
16 Q. Is that what VPBX is?
17 A. Yes.
18 Q. And that's what VOIP is?
19 A. VOIP that pushes video would have a similar
20 functionality of pushing video out of the network
21 over CAT 5 wires.
22 Q. Well, I thought VOIP was voice-over the
23 Internet.
24 A. With video you can push the video through
25 that as well, yes. So, they were looking for

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1 distributed video to classrooms.
2 Q. They were not looking for voice-over IP?
3 A. Well, voice -- they were hoping to be able to
4 do it over a VOIP system, but that was not what was
5 provided to them.
6 Should I stop talking while you do the
7 whispering?
8 Q. No. Keep answering. I'm listening.
9 A. Okay. So, to state what I just said, the
10 functionality of distributed video is what they were
11 looking for. If they could do that over a VOIP
12 system that was eligible in Year 6, that's what they
13 were looking for.
14 And the vendor supplied a different solution
15 using a VPBX, which was accepted.
16 MS. WEINSTEIN: Mr. Friedman, are you
17 being distracted by counsel's speaking -- whispering
18 to his client and his client whispering to him during
19 the deposition?
20 THE WITNESS: I've continually been
21 interrupted by that, not knowing whether he's
22 listening to what I said.
23 MS. WEINSTEIN: So, it's hampering your
24 testimony and it has been?
25 MR. KIRCHNER: I object to that

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1 question. It is a leading question from your
2 counsel.
3 If you have questions, please stop me,
4 but the court reporter is recording your answers, so
5 whether I listen or not is irrelevant.
6 THE WITNESS: But there's other activity
7 that is actually drawing from my ability to
8 concentrate and --
9 MR. KIRCHNER: Okay.
10 THE WITNESS: -- in conversation I'm
11 used to people looking at you. So, when you ask a
12 question I'm responding to you, and your client
13 whispering in your ear, writing things, and when you
14 have a conversation while I'm talking, I find that to
15 be most disturbing.
16 Q. Okay. Well, this is not a conversation. But
17 is there any -- any answer that you've given that
18 you would like to correct or change based upon your
19 having been distracted?
20 A. Without looking over the transcript, I can't
21 think of anything right now. It's just -- you know,
22 I find it to be, um, difficult to -- I find it to be
23 distracting.
24 Q. Well, you'll be given an opportunity when the
25 transcript is prepared to look at it, and if there is

39 (Pages 356 to 359)

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1 Q. Okay. Let me show you a document that's
2 been marked as Exhibit P-94, ask you if you've seen
3 this document before?
4 A. Yes.
5 Q. Where have you seen this document?
6 A. This is downloadable from the web by the
7 company who does this. This is marketing material
8 that goes out to redistributors and distributors of
9 their product.
10 Q. And what company is that?
11 A. I don't know. Actually whoever this company
12 is that VPBX - whatever, Innovative Technology.
13 MR. BLEE: Mr. Kirchner, this is
14 un-Bates stamped. I would assume this was also
15 supplied by MTG in the federal court action.
16 MR. KIRCHNER: Yes, that's correct.
17 MR. BLEE: Thank you.
18 MR. KIRCHNER: And it was produced to
19 RelComm in discovery in the federal court action by
20 MTG.
21 THE WITNESS: This is downloadable. I
22 actually went to the site and downloaded this.
23 Q. When did you do that?
24 A. Certainly not when - during the Year 6. It
25 was after that.

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1 Q. Okay. Did you see this document somewhere
2 and then go to the website and download it yourself?
3 A. I don't recall. I recall being curious about
4 what RelComm was claiming, that they had shown this
5 to the district and that MTG - and the district
6 gave it to MTG, and I went to this website and I saw
7 that it was a - a document that was provided -
8 Q. Okay.
9 A. - to just about anybody who would want to
10 download it and sell their product.
11 Q. Do you have any knowledge whether MTG relied
12 on this document as support for its bid proposal for
13 Year 6?
14 MR. BLEE: Objection.
15 THE WITNESS: I don't - I can't answer
16 that. I did not write the proposal with MTG.
17 Q. Have you ever discussed it with MTG or anyone
18 from MTG?
19 A. What is it?
20 Q. It being what it relied on in -
21 A. No.
22 Q. - providing its Year 6 E-Rate proposal.
23 A. No, I did not.
24 Q. How about Exhibit 93?
25 A. Where is 93? Yes.

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1 MS. WEINSTEIN: Objection.
2 THE WITNESS: Yes. I believe that I was
3 quite startled to hear that you claim that MTG had a
4 document that no other vendor had and I was curious
5 as to what that document was.
6 Q. Okay. How about Exhibit P-92, do you know if
7 MTG relied that document in preparing its Year 6 bid?
8 A. No, I have no knowledge -
9 MR. BLEE: Objection.
10 THE WITNESS: - what that document is
11 about or what they did with it.
12 MR. KIRCHNER: Okay. I just want to go
13 back and get this marked and I think we're nearing
14 the end here.
15 (P-96, Documents, marked.)
16 Q. Would you take a look at what's been marked
17 as P-96, just a series of documents.
18 Do you recognize these documents?
19 A. No. I have never seen them before.
20 Q. Okay. Have you ever been on the USAC
21 website?
22 A. Several times.
23 Q. Do you recognize these documents as printouts
24 from that website?
25 A. There's nothing on here that indicates that.

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1 There is nothing that says that it is
2 SLUniversalService.org, that it was taken from.
3 There is nothing here except that it came from
4 somebody's computer file in Drive A with this file
5 name, so there is no way to confirm that what you're
6 telling me is where it came from.
7 Q. I'm asking if you recognize it as coming from
8 that source?
9 A. I cannot recognize it as coming from that
10 source.
11 Q. Okay. You see on the first page there
12 reference to I-M-H-O-T-E-P Charter School?
13 A. Yes.
14 Q. And then you see a spin number - several
15 spin numbers?
16 Is - first of all, do you know how - how
17 do you pronounce that name, I-M-H-O-T-E-P, do you
18 know?
19 A. Imhotep.
20 Q. Is that a school for which Alemar provided
21 services during the Year 6 E-Rate process?
22 MS. WEINSTEIN: Objection. Objection.
23 I'm going to - I'm not sure that I'm allowing my
24 client to answer this question. I need to ask him so
25 that I can determine whether -

41 (Pages 364 to 367)

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1 THE WITNESS: By taking a site visit and
2 seeing the situation the district was in.
3 All vendors not only did a site visit
4 but I think also had the ability to come back at any
5 time and to see whatever else they needed.
6 As a matter of fact, I believe that was
7 stated several times on the DVD that you submitted
8 with Miss Cohen and Mr. Holt all saying that if you
9 need any more time, if you need to see anything else,
10 please let us know.
11 Q. Was there somebody on the tour who explained
12 to vendors what the problems were?
13 A. The tour was conducted by the school
14 district. The problems were fairly evident as far as
15 the way the wires were run, the way redundancy in the
16 network had been set up.
17 We felt that if vendors went into these areas
18 and saw how it was set up that they would propose a
19 better way to configure that network.
20 Q. So, is your answer to my question no?
21 A. The answer to your question is repeat the
22 question.
23 MR. KIRCHNER: Could you repeat the
24 question please, Bob.
25 (Whereupon the preceding question was

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1 read back by the reporter.)
2 THE WITNESS: I believe that there was
3 someone on the tour who could explain what the
4 district was experiencing but would not be able to
5 necessarily identify the cause of those problems.
6 Q. And who would that person be?
7 A. That would have been either Miss Cohen or Mr.
8 Holt.
9 Q. Okay. Isn't it true that Mr. Holt responded
10 to questions during that tour that he had no
11 knowledge of any problems at the school district?
12 A. It is true that Mr. Holt several times said
13 that we were expecting information to come from the
14 district, most especially from Mr. Jones's office,
15 and that after several requests that information had
16 not been forthcoming, and therefore vendors were free
17 to visit whatever they needed to see in order to
18 pitch a better solution.
19 Q. Okay.
20 A. We would have provided more information if we
21 had not been blocked from receiving that information.
22 Q. I show you next what's been marked as P-68.
23 P-68 is Bates numbered 98 through 100.
24 A. Okay.
25 Q. Do you recognize this document?

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1 A. It's a planning document in response to a
2 Year, I don't know, maybe 6.
3 Q. Says funding Year 2003 Selective Review
4 Additional Questions. Is that your correct?
5 A. I believe that would be Year 6.
6 Q. And this is a document in progress, is it
7 not --
8 A. That is a document --
9 Q. -- not the final product?
10 A. This is true.
11 Q. Now, you see on the first page there at the
12 bottom the district is requesting the unfunded 32
13 servers listed for the previous year.
14 At this time isn't it true that you knew that
15 the district already had received servers in Year 4?
16 A. We're not talking about Year 4 servers here,
17 we're talking about Year 5 servers that were
18 unfunded, and as you've already stated I had no
19 knowledge that Year 5 was any repeat of Year 4 at
20 all.
21 Q. You didn't know that at the time you drafted
22 this document?
23 A. You're the first person telling me that.
24 Q. Okay. Now, you say later -- right at the
25 very bottom you say the idea was to migrate new

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1 systems down to replace older systems while
2 maintaining the eligible functionality for the
3 program year for which the systems were acquired.
4 What do you mean by that?
5 A. It means that according to program rules you
6 can't change the functionality of certain devices
7 that are purchased until a certain time period has --
8 has passed.
9 So, the district can take a look at those
10 servers which have been in service for over that
11 period of time and re-purpose them, downward migrate
12 them.
13 So, we were explaining basically that there
14 was a strategy for how we were going to handle this
15 equipment.
16 Q. Wasn't that the equipment provided in Year 4
17 that you were talking about?
18 A. You're telling me that now. I have no
19 knowledge of that.
20 Q. Okay. Where did you think that equipment
21 came from?
22 A. What equipment?
23 Q. The equipment that you're talking about
24 migrating to another function.
25 A. The equipment in Year 4 would have -- not

19 (Pages 276 to 279)

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1 Q. Okay. And then isn't it true that ComTec bid
2 on those very services for Year 7?
3 MR. SANTORI: Objection.
4 THE WITNESS: Actually, no, it is not
5 true. ComTec does not supply cellular service.
6 Q. Okay. So, ComTec did not bid on the
7 services that were in the information packet that you
8 created for Year 7?
9 A. ComTec did not bid on the telecommunications
10 services for Year 7. They do not supply -- to the
11 best of my knowledge they don't provide telephone
12 service, they don't provide cellular service, and
13 they don't provide Internet service.
14 Q. Well, what was -- what award was ComTec
15 awarded for Year 7?
16 A. I don't know. I do know they were awarded
17 internal connections, but I do know they were not
18 awarded anything dealing with telecommunication.
19 Q. Do you consider it any violation of -- a
20 violation of E-Rate regulations for a company to
21 receive any award during a year in which it is
22 helping put together the information packet that goes
23 out to vendors?
24 MS. WEINSTEIN: Objection.
25 MR. BLEE: Objection.

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1 THE WITNESS: The SLD says that ComTec
2 cannot prepare information for which they receive an
3 award and they did not do so.
4 MR. KIRCHNER: Okay. Why don't we break
5 for lunch.
6 (Break.)
7 (P-95, Letter dated 2/3/03, marked.)
8 MS. WEINSTEIN: During the break I
9 obtained a copy of a document that you, Mr. Kirchner,
10 requested during earlier in the deposition.
11 This is a document with the Atlantic
12 City Schools at the title on the letterhead and it's
13 a letter addressed to Micro Technology Groupe, Inc.,
14 and signed by Frederick P. Nickels, Superintendent of
15 Schools.
16 MR. KIRCHNER: And for the record, it's
17 been marked as Exhibit P-95.
18 Q. And, Mr. Friedman, is this the letter that
19 you testified about earlier that you provided to Mr.
20 Nickels?
21 A. This is the letter that Mr. -- that the
22 Office of the Superintendent faxed to me in
23 preparation for the audit for that year.
24 Q. But I believe you testified earlier, correct
25 me if I'm wrong, that you provided this as a form

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1 letter to Mr. Nickels for him to send out to the
2 award recipients for Year 6; is that right?
3 A. I would provide -- I provided the language
4 of the letter, yes.
5 Q. Okay.
6 MS. WEINSTEIN: The document you said
7 was marked P-95?
8 MR. KIRCHNER: P-95, yes.
9 MS. WEINSTEIN: Why is it 95?
10 MR. KIRCHNER: Well, we've premarked all
11 the other exhibits, so that's the next number in the
12 sequence.
13 MS. WEINSTEIN: I see.
14 MR. KIRCHNER: Okay.
15 Q. Mr. Friedman, I'm going to show you what was
16 previously marked as Exhibit P-62, which for the
17 record is Bates numbered 7191.
18 Take a look at that, please. You see the
19 reference to Mr. Corvaia again there?
20 A. Yes.
21 Q. Except this time it says atx.com. Is that
22 the same Mr. Corvaia that you earlier testified
23 was --
24 A. Yes.
25 Q. -- with ComTec?

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1 A. Yes, it is.
2 Q. Is he now with ATX?
3 A. He was at that time.
4 Q. Okay. At that time, and that time being in
5 October of 2003; is that right?
6 A. Yes.
7 Q. Is he now with ComTec?
8 A. I don't know that.
9 Q. Okay. The earlier document you looked at,
10 P-61, is dated February of 2003, and at that time he
11 was with -- his e-mail address at least said ComTec.
12 Is it your testimony that you don't know
13 where he is now?
14 A. It's my testimony that I have not had contact
15 with Mr. Corvaia since last year.
16 Q. Has ATX bid -- or did ATX bid on any part of
17 the Year 7 Atlantic City School Board requests for
18 proposals?
19 A. I don't know.
20 Q. Okay. Let's do this one next. This is
21 P-63. Let me show you P-64 also. You can look at
22 them together.
23 Mr. Friedman, have you ever seen either P-63
24 or P-64 before?
25 A. I don't believe so.

17 (Pages 268 to 271)

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1 Q. Let's show you this.
2 A. Are we done with this?
3 Q. Yes. Now I'm going to look at P-61. We
4 skipped over one.
5 Mr. Friedman, do you recognize P-61?
6 A. It looks like a communication from RelComm
7 individuals to me about the Telligent and Verizon,
8 which are telecommunications companies.
9 Q. You said RelComm individual, is that --
10 A. I'm sorry, I meant ComTec individual.
11 Q. Do you know who Joe Corvaia is?
12 A. An employee of ComTec.
13 Q. Okay. This looks like for the record a
14 string of e-mails. It is Bates number 7034. The
15 bottom e-mail, which appears to be the first in the
16 chain, is dated February 9, 2003 at 1:38 p.m. from
17 you to Mr. Corvaia.
18 And you say: Here's the preliminary without
19 the bid totals. Rev 2 shortly.
20 What does that mean, do you recall?
21 A. Yes, I do recall. This is putting together
22 the bid matrix that we provided to the district.
23 You've already provided that bid matrix as
24 one of your exhibits last time.
25 So, this is the planning document. They were

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1 Why did you expect that the board might
2 question the number of servers?
3 A. I was actually -- because the board was --
4 the district was concerned about the price of servers
5 at \$77,000 and they wanted to be made very clear what
6 the price of the bid servers were.
7 And if you take a look at the matrix that was
8 produced, each of the servers and the type is given
9 as a per unit cost for comparison by the board.
10 Q. Well, you don't say the board may question
11 the price of the servers. You say the board may
12 question the number of servers.
13 A. Well, just what is meant by that, I only
14 interpret the way I just did. Number, prices, you
15 know, the servers themselves. The servers themselves
16 were pulled out, identified by function and by price.
17 Q. Had you at this time, and the time is
18 February 9th of 2003, had you assessed the equipment
19 that was in the district at that time?
20 A. I'm sorry?
21 Q. As of the date of this e-mail, had you
22 assessed the equipment that was actually in the
23 district at that time?
24 A. As of the date of this e-mail, we were still
25 prevented from seeing the equipment and from touching

because
they
received
32.

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1 providing me with the telco information and I was
2 collating the information that I had -- was privy to
3 on the internal connections, and we produced this bid
4 matrix which we gave to the district which is now in
5 public record and which you also have.
6 Q. Okay. If you look at the e-mail, the second
7 e-mail in this chain, which is also dated February 9,
8 2003, at 6:16 p.m. from you to Mr. Corvaia, on the
9 second paragraph you refer to the document.
10 Is that the document you were just referring
11 to, the bid matrix?
12 A. Yes.
13 Q. Now, in the second paragraph you say: I've
14 provided an analysis of the others based on the bids.
15 What do you mean by that?
16 A. The conversation of the people present at
17 that meeting based on the internal connections and
18 how they selected.
19 Q. Was that their analysis or your analysis or a
20 combination?
21 A. I have taken the information that I was --
22 what do you call that -- present for, and I put that
23 information into the bid matrix.
24 Q. And then you say: The board may question it
25 says of number of servers.

no
reels?

why?

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1 it in any way.
2 Q. Okay. So your answer is no, you had not
3 assessed the equipment?
4 A. The answer is I was not able to assess the
5 equipment, not that I hadn't or hadn't attempted to.
6 Q. Okay. And then your last paragraph before
7 you say you're going to the theater is that RelComm
8 sent a complaining bid. They claim they were denied
9 the numbers that they requested and did not fare well
10 in pitching a best solution accordingly. They imply
11 that their implementation to date is the best
12 solution.
13 Why did you include that in your e-mail to
14 Mr. Corvaia?
15 A. Because there was the only complaining bid
16 and that's the way it had been written on the matrix
17 and I just wanted to make sure that he was -- that he
18 understood what I was doing.
19 Q. Did Mr. Corvaia have anything to do with that
20 part of the matrix?
21 A. No, not at all.
22 Q. Okay. Who was -- how many bid opening --
23 strike that.
24 How many bid openings were there for Year 7?
25 MR. BLEE: Objection, for the same

15 (Pages 260 to 263)

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1 Q. And you see on the page 6821 towards the top
2 the same indication, VOIP system with video all
3 eligible items VPBX?
4 A. Um-hum.
5 Q. Okay. On the front page of that document --
6 first of all, is this the final document that went to
7 USAC?
8 A. I believe so.
9 Q. Can you tell from looking at it?
10 A. I can't tell from looking at it.
11 Q. Okay. Look on page 6818. In the middle of
12 the page in the box there that says Year 5 2002?
13 A. Um-hum.
14 Q. At the bottom of that box there is language
15 that says: With the submission of their Year 5
16 review, the district formally requested that the
17 corresponding Forms 471, and then there are three
18 numbers in parentheses be rescinded. Do you see
19 that?
20 A. Yes.
21 Q. Is that your recollection of when Year 5 FRNs
22 were rescinded?
23 A. Actually you showed me that document last
24 time we met, which was the Year 5 audit which did
25 reflect that. The answer is yes.

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1 Q. I believe you testified that last time that
2 the district -- the reason the district had no
3 expectation that Year 5's request would be funded was
4 because of the funding levels funded by the SLD; is
5 that right?
6 MR. BLEE: Objection to the form of the
7 question.
8 MS. WEINSTEIN: Objection as well.
9 THE WITNESS: The reason the school
10 district at what time did not have -- what time frame
11 are you talking about? This is -- this is over two
12 years out. So, are you talking about when this was
13 done?
14 Q. No. I'm talking about when you created the
15 Year 6 bid package.
16 A. When I created the Year 6 package? Which
17 package, the original Year 6 submission or the Year 6
18 audit which is what's in front of me?
19 Q. No. The Year 6 bid package.
20 A. When I put -- when I submitted the Year 6 bid
21 package, the school district had not yet received a
22 funding commitment letter that funded that project
23 and therefore decided to re-bid it so that they would
24 not lose the opportunity to bring in that equipment
25 if it in fact had not been funded.

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1 Q. And my question is, is that the reason why
2 the school district rescinded its Year 5 request for
3 funding?
4 A. The district did not rescind its request for
5 funding at the time of the question you just gave me.
6 Q. That's not my question. My question is was
7 that the reason at the time, whatever time the school
8 district rescinded its Year 5 request for funding,
9 was that the reason for its decision?
10 A. You asked me a question about what happened
11 in December of 2002 and are now extending that to a
12 decision that was made in 2004. I'm saying if it
13 was the same decision --
14 Q. No --
15 A. -- and things had changed since then, so I'm
16 not really clear what it is you're asking.
17 Q. Let me ask it in a different way. At the
18 time that the school district decided to rescind its
19 Year 5 funding request, was the reason for its
20 decision based upon the fact that you had advised
21 them that they would not be funded for Year 5 because
22 of the SLD's funding levels?
23 MS. WEINSTEIN: Objection as to form.
24 THE WITNESS: Okay. At the time that
25 decision was made, which was I guess in March of

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1 2004, this initiative had not yet been funded two
2 years out.
3 They also were under audit and they were
4 asked to provide documentation that supported a
5 competitive bid on internal connections, which they
6 could not do, so they felt it was most prudent to
7 support that -- to submit the documentation for that
8 which they could support and to rescind any requests
9 for documentation they could not support.
10 And that basically is why they rescinded
11 the Year 5 requests in March or April of 2004.
12 There were some other discussions, but I
13 suppose that that was mostly it, that we were -- had
14 to show supporting documentation and we had none.
15 Q. Okay. Now, when a 470 is posted on the
16 website, how long is it required for that to be
17 posted before the bidding process can be closed?
18 A. 28 days.
19 Q. Okay. And during that 28 day period the
20 school district must receive bids responsive to that
21 470; is that correct?
22 A. Yes.
23 Q. If the school district receives only one bid,
24 must it go out and solicit additional bidders? Can
25 it award a contract to the one bidder who has bid on

13 (Pages 252 to 255)

(856) 983-8484

Even though they had the E Quipment.

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1 A. Mr. Deans has won awards.
2 Q. Okay. How long have you known Mr. Deans?
3 A. I don't know Mr. Deans.
4 Q. Don't —
5 A. I've met Mr. Deans, but I don't know Mr.
6 Deans.
7 Q. When did you meet Mr. Deans?
8 A. Actually I don't recall —
9 Q. Okay.
10 A. — when that first meeting was.
11 Q. Now, did Mr. Holt's company, Informed
12 Resources, receive awards during Year 6 from other
13 schools for which Alemar was providing consulting
14 services?
15 A. Mr. Holt did win awards in Year 6.
16 Q. And that's the same year that he was working
17 for Alemar or assisting Alemar in providing
18 consulting services to the Atlantic City School
19 Board; is that correct?
20 A. That was the same year that Mr. Holt, yes,
21 had done some work for me in Atlantic City.
22 Q. Okay. Do you know how many — do you recall
23 how many schools Mr. Holt's company won contracts
24 from in Year 6?
25 A. No, I do not.

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1 Q. Do you recall if he won a contract award from
2 the Renaissance Charter School in Year 6?
3 A. Again, without the documents in front of me,
4 I don't know who provided Mr. Holt with awards.
5 Q. Okay. Do you recall how many vendors bid on
6 a PVBX solution for Year 6?
7 A. I believe two. I'm not sure. I believe it
8 was two.
9 Q. Do you recall who they were?
10 A. Well, I know MTG was one of them. I don't
11 recall who the other was.
12 Q. Okay. Take a look again at P-56. Can you
13 tell me where in that information packet it refers to
14 a PVBX?
15 A. Well, actually this is an extension of the
16 Form 470, and the form 470 does say VOIP with video,
17 which is basically a video distribution piece.
18 What — on the DVD that you submitted, there
19 was a discussion at the walk-through on PVBXs on that
20 DVD, so vendors were discussing it and that was the
21 solution for video distribution that MTG submitted to
22 the district.
23 Q. Which DVD are you referring to?
24 A. The DVD that was submitted to the FCC filing.
25 Q. Okay. So, your testimony is that VOIP with

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1 a video solution is equivalent to a PVBX?
2 A. It is distributed video over CAT 5, and we
3 were asking for a best solution and also contains
4 some of the components that you do see listed here,
5 which were also listed on the Form 470.
6 Q. Okay. So, your testimony is that even
7 though there is no mention of PVBX in this document,
8 that vendors were aware that PVBX was something that
9 the district was soliciting bids for?
10 MR. BLEE: Objection to the form.
11 MS. WEINSTEIN: I object as well.
12 THE WITNESS: The district articulated
13 they were interested in distributed video. They put
14 up — they have voice-over IP with video, they put
15 up video components, and that was the solution that
16 MTG supplied and that was the solution that the
17 district accepted. It is the same functionality.
18 Q. Why didn't you include it in PVBX the
19 information packet that you produced to vendors?
20 MR. BLEE: Objection.
21 THE WITNESS: I can't answer that. I
22 have no idea.
23 As a matter of fact, last time we were
24 together I assumed that it was in here. I even
25 answered the question when you said is it in the

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1 packet and I said yes, and I went home I looked at
2 that packet and I realized that it wasn't, so I can't
3 answer why it wasn't. It was not intentional.
4 But it's certainly on the Forms 470 and
5 that form and this form collectively is what the
6 district was requesting a best solution for.
7 Q. Is voice-over IP, was that an eligible
8 service in Year 6?
9 A. Yes, it was.
10 Q. How about PVBX, was that eligible in Year 6?
11 A. Yes, it was.
12 Q. I show you what's previously been marked as
13 P-57. Do you recognize this document?
14 A. This is not a Year 5.
15 Q. For the record, this is Bates numbered 7044
16 through 7049. It appears to be missing 7047. This
17 is how it was produced to us.
18 My question is do you recognize this
19 document?
20 MS. WEINSTEIN: Excuse me, I have 7047.
21 MR. KIRCHNER: Oh, do you?
22 MS. WEINSTEIN: Yes.
23 MR. KIRCHNER: Okay. The copy I have
24 doesn't.
25 MR. BLEE: And I don't.

11 (Pages 244 to 247)

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1 A. We had meetings with basically district
2 administration, Mr. Nickels, Miss Haye, Miss Motz,
3 and different folks walked in and out or sat with us,
4 board members.

5 I'm not quite sure which meetings were which.
6 I had about four meetings with the district prior to
7 this. Some of them dealt with more than just the
8 current E-Rate initiative.

9 Q. Okay. And --

10 A. We presented them with web servers that we
11 had, web server configurations that met with the
12 basic idea of what they needed to do. They looked at
13 it and decided, well, it was fine, this was what
14 other schools were going for. That would be fine for
15 them.

16 Q. So, if I'm understanding your testimony
17 correctly, you presented members of the
18 administration with a proposed solution for web
19 servers, they said fine, and that you -- based on
20 that you then drafted this document as an information
21 packet, is that what you're saying?

22 A. No. I don't recommend solutions. What I do
23 is I provide them with information about what is
24 eligible against the needs that they are
25 articulating.

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1 And based upon discussions and what a web
2 server looks like and what an e-mail server looks
3 like, we provided them with this basic configuration
4 that would reflect the 32 servers that they were
5 still interested in providing and the rest of the
6 work and conditions that they were asking for, and I
7 put together a list presented, it to them, they
8 approved it, and we put it out.

9 Q. Okay. Did you provide them with any other
10 options to choose from other than one reflected on
11 Exhibit P-56?

12 A. It's fairly generic, so no, I did not.

13 Q. Okay.

14 A. It's not my job to go out and take out, you
15 knew, bids. It's just a basic idea that I presented
16 to the district.

17 Q. Who among you and the School Board or the
18 administration members decided that there was a need
19 for new servers?

20 A. It is standard practice that when an E-Rate
21 initiative or project is not funded in one year and
22 you're about to go into the next year and you don't
23 know if that funding will come, that you do re-bid
24 these items though so that you don't lose out on
25 that year.

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1 The district only wanted this. The district
2 requested that we re-bid out the servers.

3 Q. But hadn't now servers already been installed
4 in Year 4 of the E-Rate program?

5 A. New servers were also unfunded in Year 5 of
6 the E-Rate and that is what they were re-bidding.

7 Q. And I believe you testified that at that time
8 you did not know that Year 5 was a re-bid of Year 4.
9 Is that right?

10 A. Yes, that is correct.

11 Q. Once you learned that -- well, strike that.

12 Prior to putting this information packet
13 together, did you do an inspection of the equipment
14 at the school district?

15 A. We were not allowed. We had trouble getting
16 to that equipment. We even requested equipment be
17 brought to the administrative office.

18 I believe the superintendent received a
19 letter from you instructing him not to do, so that
20 the district no longer -- did not own those -- that
21 equipment for which RelComm had already their 87
22 percent from the government.

23 Q. Do you recall the date that you created this
24 document, P-56?

25 A. I didn't create the document. I said it was

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1 a collaborative creation between Mr. Holt, the
2 district, and I, and I do not know the exact date
3 that the document -- final document was brought
4 forward.

5 Q. Aside from or in addition to -- I believe you
6 testified last time Mr. Holt conducted or
7 participated in the walk-throughs for Year 6; is that
8 right?

9 A. Yes.

10 Q. And you also -- you testified you
11 participated in creating this information package
12 which is P-56, and I believe you also testified that
13 he did site inspection work; is that correct?

14 MS. WEINSTEIN: Objection.

15 THE WITNESS: I don't recall site
16 inspection. I believe they walked through and they
17 took some pictures. I'm not sure I would term that
18 site inspection.

19 Q. Well --

20 A. However, we also understand that when we
21 tried to identify these 32 servers that were in
22 place, nobody knew where they were. We spent an
23 awful long time trying to identify where they were
24 and were not able to do so until well after we were
25 able to file.

9 (Pages 236 to 239)

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1 it, then I would not object to the form of the
2 question but would reserve my right to object on any
3 other grounds.
4 I just did not want him testifying on
5 his recollection of something that he heard at a
6 deposition or the fact that he was present at a
7 deposition.
8 But I have no objection whatsoever and
9 would instruct my client to cooperate to the form of
10 the question if it was altered in the way that I
11 suggest.
12 MR. KIRCHNER: Okay. That's what I'll
13 do then.
14 Do you want to place your general
15 objection on the record?
16 MS. WEINSTEIN: I would like to place a
17 general objection on the record.
18 For the purpose of facilitating a smooth
19 and efficient deposition here rather than making
20 objections and interrupting the flow of the
21 deposition, I would like to object, and as I
22 understand it we -- counsel has agreed to these being
23 continuing objections that will apply to the
24 deposition until its end.
25 We object to any questioning with regard

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1 to the Year 6 or Year 7 E-Rate contracts
2 applications, any work that Mr. Friedman did or
3 anything at all concerned with either of those
4 contracts because we feel that they're outside the
5 scope of discovery in this matter, and particularly
6 with regard to Mr. Friedman, we would object to any
7 deposition testimony elicited from Mr. Friedman with
8 regard to events that happened after the complaint in
9 this matter was filed.
10 Any other objections I reserve to make
11 during the course of the deposition. Thank you.
12 MR. KIRCHNER: Okay.
13 BY MR. KIRCHNER:
14 Q. Mr. Friedman, I'm going to show you a copy of
15 the transcript from the deposition of Lisa Mooney.
16 Now, you see at the bottom of the first page
17 there where it says also present on the lefthand
18 side?
19 A. Yes.
20 Q. You see your name there?
21 A. Yes.
22 Q. You were present at Lisa Mooney's deposition,
23 is that accurate?
24 A. Yes.
25 Q. Okay.

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1 MS. WEINSTEIN: Objection.
2 Q. Would you turn to page 27, which is -- I've
3 marked with a blue tab?
4 I'm going to read, you can read along with
5 me, starting at the very bottom of page 27.
6 A. Line number?
7 Q. Line number 22 and I'm going to continue over
8 to page 29.
9 The question: Now, were there complaints at
10 the school district about maintenance during Year 2
11 E-Rate program?
12 Answer: Yes.
13 Question: What were those complaints?
14 Answer: Specifically I don't recall.
15 Generally the network wasn't operating the way that
16 it was supposed to. There were long periods of time
17 where the network would be down and that there is a
18 solution that had been -- wasn't working correctly.
19 Question: And who was responsible for
20 working with Lucent to correct those problems?
21 Answer: John Jones.
22 Question: Did you speak to Mr. Jones about
23 that?
24 Answer: Yes.
25 Question: How frequently would you say you

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1 spoke to Mr. Jones about those problems?
2 Answer: At least weekly.
3 Question: And what did the School Board
4 ultimately do to try to correct that problem?
5 Answer: We did a spin change to replace the
6 subcontractor that Lucent had working on that network
7 solution.
8 Question: Okay. Spin is an E-Rate term;
9 is that correct?
10 Answer: Yes.
11 Question: S-P-I-N?
12 Answer: Yes.
13 And were you involved -- question: And were
14 you involved in the decision to make that change?
15 Answer: Yes.
16 Question: Who else was involved in that
17 decision?
18 Answer: Michael Eppa, he was our solicitor,
19 John Jones, Elijah Thompkins. That would be from my
20 side of the organization. I'm not sure who Mr.
21 Jones talked with, you know, program-wise.
22 Question: And what -- is that the change
23 that brought RelComm into the school district?
24 Answer: Yes.
25 Question: So, RelComm was chosen to replace

5 (Pages 220 to 223)